



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,083	08/11/2006	Marc Theisen	10191/3760	1555

26646 7590 05/11/2007
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

PECHE, JORGE O

ART UNIT	PAPER NUMBER
----------	--------------

3661

MAIL DATE	DELIVERY MODE
-----------	---------------

05/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Office Action Summary</p>	Application No. 10/550,083	Applicant(s) THEISEN ET AL.	
	Examiner Jorge O. Peche	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/19/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/19/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Foreign Priority

1. Applicant cannot rely upon the foreign priority papers (DE 103 11 524.2) to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

The only times during ex parte prosecution that the examiner considers the merits of an applicant's claim of priority is when a reference is found with an effective date between the date of the foreign filing and the date of filing in the United States and when an interference situation is under consideration. If at the time of making an action the examiner has found such an intervening reference, he or she simply rejects whatever claims may be considered unpatentable thereover, without paying any attention to the priority date (assuming the papers have not yet been filed). The applicant in his or her reply may argue the rejection if it is of such a nature that it can be argued, or present the foreign papers for the purpose of overcoming the date of the reference. If the applicant argues the reference, the examiner, in the next action in the application, may specifically require the foreign papers to be filed in addition to repeating the rejection if it is still considered applicable, or he or she may merely continue the rejection. Form paragraph 2.19 may be used in this instance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims **5, 7-8** are rejected under 35 U.S.C. 102(a) as being unpatentable over **Eisele et al. (DE 101 41 886 A1 / Equivalent translation Pub No.: 2005/0192731)**.

Regarding **claim 5**, Eisele discloses a method for determining a trigger time restraint means in a vehicle comprising:

- A triggering part unit (5) and actuator unit (6) to activate restrain means (7) (e.g. airbag and/or belt tensioner) (see page abstract, page 2, par. 20-22).

- An evaluation unit (3) to activate the restraint system and calculate the trigger time (time required) when received accident signal (crash and pre-crash signal) is greater than a predefine threshold (noise threshold) (see page 1, par. 12; page 2, par. 18, 22 and 25; Figures 1-2).

Regarding **claims 7-8**, Eisele discloses a method to calculate a trigger time (triggering time) as a function of crash speed (collision velocity) and crash type (see page 1, par. 5, 8, 11-12 and 14). Furthermore, crash speed (collision velocity) is calculated with the aid of pre-crash sensor (see abstract, page 1, par. 5; page 2, par. 8).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim **6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Eisele et al. (DE 101 41 886 A1 / Equivalent translation Pub No.: 2005/0192731)**.

Regarding claim **6**, Eisele teaches a method to compensate (fixed offset) the trigger time in accordance to speed reduction and calculating process (page 1, par. 7 and 12)

Given the teaching of Eisele, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to understand that the invention restrain

system can adjust the trigger time level in accordance to speed reduction and calculating.

Doing so would enhance a precise restraint means with a more accurate trigger time.

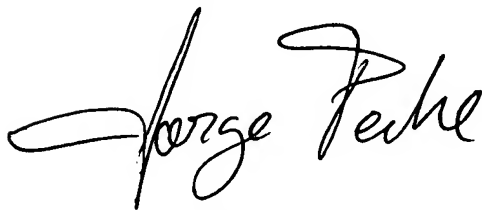
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge O. Peche whose telephone number is 571-270-1339. The examiner can normally be reached on 8:30 am - 5:30 pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3661

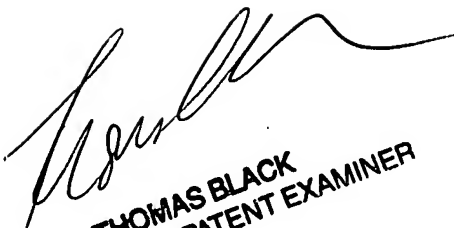
A handwritten signature in cursive script, reading "Jorge Peche".

Jorge O. Peche

Patent Examiner

Art Unit 3661

April 27, 2007

A handwritten signature in cursive script, reading "Thomas Black".
THOMAS BLACK
SUPERVISORY PATENT EXAMINER